IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

OP.No. 8090 of 2003(K)

PETITIONER:

K.N.GOPALA KRISHNAN NAIR,
S/O. NARAYANAPILLA, RTD. FIRST GRADE SURVEYOR,
RENJINI HOUSE, KARUKACHAL, CHANGANASSERY,
KOTTAYAM.

BY ADV. SRI.K.R.SUKUMARA PILLAI
SRI.C.P.SAJI

RESPONDENTS:
---

1. THE KERALA STATE FINANCIAL ENTERPRISES LIMITED, BHADHRATHA, P.B.NO.510, MUSEUM ROAD, THRISSUR-20, REPRESENTED BY ITS MANAGING DIRECTOR.

2. THE MANAGER, K.S.F.E. LTD., KOZHENCHERRY BRANCH.

3. THE SUPERINTENDENT, THE SURVEY AND LAND RECORDS OFFICE, CHANGANASSERRY.

4. MR.S.JAYAPRAKASH, `JAYA BHAVANAM', ELATHOOR P.O., PATHANAMTHITTA.

5. MR.A.C.ANIL KUMAR, VILLAGE OFFICER, ENNAKKADU VILLAGE, CHENGANOOR TALUK.

6. MR.P. GOPAKUMAR, CHENGATTUKIZHAKKETHIL HOUSE, MALAKUNTHAM P.O., KOTTAYAM DISTRICT, PIN-686 552.

R1&2 BY ADV. SRI.RAJU JOSEPH, ADDL.SC.,KSFE LTD.
R6 BY ADV. SRI.K.K.MOIDEEN
SRI.R.SANTHOSH BABU

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 19/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NOS.20312/2003 & 14090/2003 IN O.P. NO.8090/2003

DISMISSED:

19.12.2006 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1:TRUE PHOTOCOPY OF THE RECEIPT DT.15.11.99 ISSUED BY R2 TO THE PETITIONER.

P2: TRUE PHOTOCOPY OF THE RECEIPT DT.17.11.99.

P3: TRUE PHOTOCOPY OF THE LETTER DT.7.9.02 OF RR2 TO R3.

P4: TRUE PHOTOCOPY OF THE REPRESENTATION DT.3.10.2002 SUBMITTED BY PETITIONER TO R2.

P5: TRUE PHOTOCOPY OF THE LETTER DT.24.12.2002 OF R1 TO THE PETITIONER.

P6: TRUE PHOTOCOPY OF THE DEMAND NOTICE DT.7.2.2003 ISSUED TO THE PETITIONER.

P6: TRUE PHOTOCOPY OF THE ORDER DT.18.8.2003 OF THE GOVT. SANCTIONING INSTALMENT FACILITY TO R4.

P7: TRUE PHOTOCOPY OF THE ORDER DT.18.8.2003 ISSUED TO R4.

RESPONDENT'S EXHIBITS:

R1: TRUE COPY OF THE REMITTANCE MADE BY R4 IN NCL 187.

R2: TRUE COPY OF REMITTANCE MADE BY R4 IN NCL 188.

R6(A): TRUE COPY OF THE LETTER OF PRINCIPAL DEBTOR'S FATHER-IN-LAW DT.26.5.2003.

R6(B): TRUE COPY OF THE ORDER IN O.P. NO.13892 OF 1994 DT.17.10.2000 REPORTED IN 2001 (1) KLT 192.

R6(C): TRUE COPY OF THE SALARY CERTIFICATE DT.16.5.2003 ISSUED BY TAHSILDAR, TALUK OFFICE, CHANGANACHERRY.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

.....

O.P. No.8090 of 2003

.....

Dated this the 19th day of December, 2006.

JUDGMENT

Heard counsel for the petitioner, Standing Counsel for KSFE and counsel appearing for the 6th respondent. The petitioner and 6th respondent are challenging recovery proceedings against them as sureties on the ground that the 4th respondent, the principal debtor and his wife are employed and they have got wealth also. Since petitioner and 6th respondent are sureties, KSFE is entitled to proceed against them also. However, in view of the fact that the principal debtor and his wife are employed, on equitable grounds, there will be direction to the KSFE to proceed first for attachment of the debtor's salary and thereafter against movables and immovables of the debtor and to proceed against the sureties only if recovery is not made from the defaulter. If 4th respondent is granted instalment facility, he is free to enjoy the same. The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms